

FORTY-NINTH DAY
(Tuesday, April 9, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Absent-excused: Brooks.

A quorum was announced present.

Senator Bob Glasgow offered the invocation as follows:

Our Father who art in Heaven, hallowed be Thy name. Thy Kingdom come, Thy will be done on earth as it is in Heaven.

Our Father, as we take up the considerations of the difficult problems of appropriating money for goods and services throughout the State of Texas, give us the wisdom and the discernment to do that from the heart. Give us the power to appropriate that money as Jesus would have appropriated it for the people who need the money in the State of Texas. In Jesus' name we pray. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, April 3, 1985, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Brooks was granted leave of absence for today on account of important business on motion of Senator Mauzy.

CO-AUTHOR OF SENATE BILL 422

On motion of Senator Brown and by unanimous consent, Senator Barrientos will be shown as Co-author of S.B. 422.

CO-AUTHOR OF SENATE BILL 453

On motion of Senator Krier and by unanimous consent, Senator Lyon will be shown as Co-author of S.B. 453.

CO-AUTHOR OF SENATE BILL 1325

On motion of Senator Farabee and by unanimous consent, Senator Lyon will be shown as Co-author of S.B. 1325.

MESSAGE FROM THE HOUSE

House Chamber
April 9, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 42, Memorializing Congress to pursue a non-nuclear defensive system in space.

H.C.R. 53, Granting Cecil Middleton permission to sue the State.

H.C.R. 72, Granting Albert P. Gorelick and Florence M. Gorelick permission to sue the State.

H.C.R. 86, Granting Billy Bob Berry permission to sue the State.

H.C.R. 90, Granting Sisters of St. Francis of St. Jude Hospital of Brenham, Texas permission to sue the State.

H.C.R. 91, Granting Petty General Construction Company, Inc. permission to sue the State.

H.C.R. 101, Granting Mongo P. Edmondson, E.M. (Boggy) James, Home Equity Company and Fern L. James permission to sue the State.

H.C.R. 122, Granting Frances Dee Cooper and Geoffrey Wayne Chandler permission to sue the State.

H.B. 44, Relating to the time at which a defendant whose conviction is reversed by a court of appeals is entitled to bail pending determination of a petition for discretionary review.

H.B. 167, Relating to the display of warning signs in language other than English by certain alcoholic beverage licensees and permittees.

H.B. 341, Relating to regional administration by certain health-related State agencies.

H.B. 475, Relating to the authority of a creditor of a decedent to institute proceedings to determine heirship.

H.B. 482, Relating to the persons authorized to collect expenses incurred in defending a will.

H.B. 557, Relating to the care and maintenance of neglected and unkept cemeteries by nonprofit corporations.

H.B. 667, Relating to the place at which an execution may take place.

H.B. 744, Relating to the jurisdiction of the statutory probate courts in Harris County and to special and substitute judges and certain staff for those courts.

H.B. 745, Relating to the assignment of property received from life insurance, under a will, or by inheritance.

H.B. 746, Relating to the payment of certain claims owed to persons for whom no guardian has been appointed, to the termination of certain guardianships, and to the disposition of guardianship assets.

H.B. 747, Relating to the classification as habitual drunkards for purposes of the Texas Probate Code of certain users of toxic inhalants.

H.B. 749, Relating to accounting and distribution procedures in the administration of certain estates.

H.B. 759, Relating to an administrative fee charged by the Texas Board of Private Investigators and Private Security Agencies to process certain sets of fingerprints.

H.B. 892, Relating to uncompensated duty for certain fire fighters and police officers.

H.B. 899, Relating to the notice provisions of the Texas Consumer Credit Code.

H.B. 973, Relating to contracts and tuition for the education of students residing in school districts that do not offer classes at all grade levels.

H.B. 1046, Relating to assignment pay for certain police officers serving as bilingual personnel in cities of 1,500,000 or more, according to the most recent federal census.

H.B. 1132, Relating to the sale of alcoholic beverages on certain boats.

H.B. 1148, Relating to the creation, administration, powers, duties, operation, and financing of the Collingsworth County Underground Water Conservation District.

H.B. 1204, Relating to the financing of street construction and improvements by certain cities.

H.B. 1229, Relating to the duties of a dental hygienist.

H.B. 1376, Relating to taking water from the Gulf of Mexico without a water rights permit.

H.B. 1523, Relating to advanced placement examinations.

H.B. 1572, Relating to compensation for professional services, contract bids, and payment of debts by freshwater supply districts.

H.B. 1577, Relating to compensation for directors of water power control districts.

H.B. 1678, Relating to the participation of physicians in executions of convicts by the Texas Department of Corrections by means of lethal injection.

H.B. 1865, Relating standards of regulatory review by the Railroad Commission of Texas for proposed gas utility rate reductions agreed to by the parties.

S.C.R. 24, Granting Mr. and Mrs. Rodney Landry permission to sue the State. (As substituted)

S.B. 35, Relating to the participation by joint airports in law enforcement interlocal assistance agreements with counties and municipalities.

S.B. 248, Relating to the administration of taxes by the Comptroller of Public Accounts.

S.B. 649, Relating to the creation of the County Court at Law of Starr County. (With amendment)

H.B. 36, Relating to the inclusion of social security numbers in a decree in a suit affecting the parent-child relationship.

H.B. 192, Relating to the authority of certain cities and their park boards over parks, certain facilities, and other public improvements.

H.B. 267, Relating to authorizing movable stop arms on school buses.

H.B. 276, Relating to absentee voting and to the location of polling places in certain elections.

H.B. 289, Relating to the authority of a municipality to surround, by annexation, an unincorporated area.

H.B. 508, Relating to the use of safety equipment on school buses stopping on a highway to unload children.

H.B. 695, To amend Article 3.42, Insurance Code of Texas, as amended, relating to life, health and accident insurance policies and forms and annuity contracts and forms; repealing laws in conflict; and declaring an ...

H.B. 853, Relating to the licensing and regulation of electricians and electrical contractors; providing a penalty.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Jones submitted the following report for the Committee on Finance:

S.C.R. 39
S.C.R. 40
S.C.R. 47
S.B. 713
S.B. 1003
C.S.S.B. 681
C.S.S.B. 1158
C.S.S.B. 1273
C.S.H.B. 724

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 880
S.B. 1171
H.B. 71
C.S.S.B. 517
C.S.S.B. 541
C.S.H.B. 275
C.S.H.B. 620

Senator Parker submitted the following report for the Committee on Education:

S.B. 923 (Amended)
S.B. 235
C.S.S.B. 265
C.S.S.B. 104
C.S.S.B. 640
C.S.S.B. 467
C.S.S.B. 738

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 967
H.B. 536
S.B. 1243
S.B. 609 (Amended)
S.B. 1264
S.B. 1253
S.B. 792
S.B. 823
C.S.S.B. 793

S.C.R. 111 by Brown **Jurisprudence**
Granting Jame H. Pogue and Karen H. Pogue and Charis Dawn permission to sue
the State of Texas.

S.C.R. 112 by Barrientos

State Affairs

Memorializing the United States Congress to continue Amtrak in operation.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

- H.B. 143, To Committee on State Affairs.
- H.B. 149, To Committee on Jurisprudence.
- H.B. 246, To Committee on Jurisprudence.
- H.B. 373, To Committee on Economic Development.
- H.B. 528, To Committee on Intergovernmental Relations.
- H.B. 729, To Committee on Health and Human Resources.
- H.B. 742, To Committee on Health and Human Resources.
- H.B. 784, To Committee on Education.
- H.B. 823, To Committee on Health and Human Resources.
- H.B. 955, To Committee on Finance.
- H.B. 1064, To Committee on Intergovernmental Relations.
- H.B. 1105, To Committee on Intergovernmental Relations.
- H.B. 1182, To Committee on Education.
- H.B. 1462, To Committee on Natural Resources.

GUEST PRESENTED

Senator Sharp was recognized and presented the Capitol Physician for the Day, Dr. Henry Lopez-Roman of Victoria.

The Senate expressed their appreciation to Dr. Lopez-Roman.

SENATE BILL 114 WITH HOUSE AMENDMENT

Senator Harris called S.B. 114 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - A. Smith

Substitute the following for S.B. 114:

A BILL TO BE ENTITLED AN ACT

authorizing and limiting investments of Texas life, health or accident insurers; adding Article 3.33, Insurance Code of Texas; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Amend Chapter 3, Insurance Code of Texas of 1951, as amended, by adding a new Article 3.33 thereto providing as follows:

Art. 3.33. Authorized Investments and Loans for Capital Stock Domestic Life, Health and Accident Insurance Companies.

Sec. 1. SCOPE. This Article and the rules promulgated to interpret and implement it shall apply to all domestic companies as defined in Section 5 of Article 3.01 of this Code and other insurers specifically made subject to the provisions hereof. Articles 3.39, 3.40 and 3.40-1 of this Code shall not be applicable to such companies, but such Articles 3.39, 3.40 and 3.40-1 shall continue to be applicable to insurance companies chartered under Chapters 9, 10, 12, 13, 14 and 22 of this Code. This article shall not limit or restrict the investments in or transactions with or within subsidiaries and affiliates which are made pursuant to the authority of the Texas Insurance Holding Company System Regulatory Act (Art. 21.49-1 of this Code).

Sec. 2. PURPOSE. The purpose of this Article is to protect and further the interests of insureds, insurers, creditors, and the public by providing standards for the development and administration of plans for the investment of the assets of insurers. Such plans should seek a reasonable relationship of liabilities and assets as to term and nature.

Sec. 3. INSURERS' INVESTMENT PLANS.

(a) The board of directors of each insurer (or corresponding authority designated by the charter, bylaws or plan of operations of an insurer which has no Board of Directors) shall:

(1) Adopt a written investment plan consistent with the provision of this article which specifies quality, maturity, and diversification of investments and is appropriate for the business conducted by the insurer and its capital and surplus.

(2) At least annually, review the adequacy of such investment plan and the implementation thereof.

(b) The insurer shall maintain the investment plan in its principal office and shall provide same to the Commissioner or his designee upon request, and such plans shall be maintained as a privileged and confidential document by the Commissioner of Insurance or his designee and it shall not be subject to public disclosure. The insurer shall maintain investment records covering each transaction. Such investment records shall contain a reference to the subsection of this Article and, if appropriate, other provision of law that authorizes the investment. At all times, the insurer shall be able to demonstrate that its investments are within the limitations prescribed in this Article.

Sec. 4. AUTHORIZED INVESTMENTS AND LOANS. Subject to the limitations and restrictions herein contained, the investments and loans described in the following subsections, and none other, are authorized for the insurers subject hereto:

(a) United States Government Bonds. Bonds, evidences of indebtedness or obligations of the United States of America, or bonds, evidences of indebtedness or obligations guaranteed as to principal and interest by the full faith and credit of the United States of America, and bonds, evidences of indebtedness, or obligations of agencies and instrumentalities of the government of the United States of America;

(b) Other Governmental Bonds. Bonds, evidences of indebtedness or obligations of governmental units in the United States, or of the Dominion of Canada, or any province or city of the Dominion of Canada, and of the instrumentalities of such governmental units, provided:

(1) Such governmental unit or instrumentality is not in default in the payment of principal or interest in any of its obligations; and

(2) Investments in the obligations of any one governmental unit or instrumentality may not exceed twenty percent (20%) of the insurer's capital and surplus;

(c) Corporate Bonds. Bonds, evidences of indebtedness or obligations of corporations organized under the laws of the United States of America, or its states, provided:

(1) Any such corporation must be solvent with at least \$1,000,000 of net worth as of the date of its latest annual or more recent certified audited financial statement or will have at least \$1,000,000 of net worth after completion of a securities offering which is being subscribed to by the insurer, or the obligation is guaranteed as to principal and interest by a solvent corporation meeting such net worth requirements which is organized under the laws of the United States of America or one of its states;

(2) Investments in the obligations of any one corporation may not exceed twenty percent (20%) of the insurer's capital and surplus; and

(3) The aggregate of all investments under this subsection (c) may not exceed:

(A) One hundred percent (100%) of the insurer's assets (excluding, however, those assets representing the minimum capital required for the insurer), but only if more than seventy-five percent (75%) of the total amount invested by the insurer in such bonds, evidences of indebtedness or obligations of any such corporations qualifying under paragraph (1) of this subsection (c) are rated either (i) AA or better by Standard and Poor's Bond Ratings service or (ii) Aa or better by Moody's Bond Ratings service; or

(B) Eighty percent (80%) of the insurer's assets (excluding, however, those assets representing the minimum capital required for the insurer), but only if more than fifty percent (50%) of the total amount invested by the insurer in such bonds, evidences of indebtedness or obligations of any such corporations qualifying under paragraph (1) of this subsection (c) are rated either (i) BBB or better by Standard and Poor's Bond Ratings service or (ii) Baa or better by Moody's Bond Ratings service; or

(C) Fifty Percent (50%) of the insurer's assets;

(d) International Market. Bonds issued, assumed, or guaranteed by the Interamerican Development Bank, the International Bank for Reconstruction and Development (the World Bank), the Asian Development Bank, and the State of Israel, provided:

(1) Investments in the bonds of any one of the entities specified above may not exceed ten percent (10%) of the insurer's capital and surplus, and

(2) The aggregate of all investments made under this subsection may not exceed ten percent (10%) of the insurer's assets;

(e) Policy Loans. Loans upon the security of the insurer's own policies not in excess of the amount of the reserve values thereof;

(f) Time and Savings Deposits. Any type or form of savings deposits, time deposits, certificates of deposit, NOW accounts and money market accounts in solvent banks, savings and loan associations, and credit unions and branches thereof, organized under the laws of the United States of America, or its states, when made in accordance with the laws or regulations applicable to such entities, provided, the amount of the deposits in any one bank, savings and loan association, or credit union will not exceed the greater of:

(1) Twenty Percent (20%) of the insurer's capital and surplus,

(2) The amount of federal or state deposit insurance coverage pertaining to such deposit; or

(3) Ten percent (10%) of the amount of capital, surplus, and undivided profits of the entity receiving such deposits;

(g) Equipment Trusts. Equipment trust obligations or certificates, provided:

(1) Any such obligation or certificate is secured by an interest in transportation equipment that is in whole or in part within the United States of America and the amount of the obligation or certificate may not exceed ninety percent (90%) of the value of the equipment;

(2) The obligation or certificate provides a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use or purchase of the transportation equipment;

(3) Investment in any one equipment trust obligation or certificate may not exceed ten percent (10%) of the insurer's capital and surplus; and

(4) The aggregate of all investments made under this subsection may not exceed ten percent (10%) of the insurer's assets;

(h) Common Stock. Common stock of any corporation organized under the laws of the United States of America or any of its states, shares of mutual funds doing business under the Investment Company Act of 1940, 15 U.S.C. Sections 80a-1 et seq., and shares in real estate investment trusts as defined in the Internal Revenue Code of 1954, 26 U.S.C. Section 856, provided:

(1) Any such corporation, other than a mutual fund, must be solvent with at least \$1,000,000 net worth as of the date of its latest annual or more recent certified audited financial statement or will have at least \$1,000,000 of net worth after completion of a securities offering which is being subscribed to by the insurer;

(2) Mutual funds and real estate investment trusts must be solvent with at least \$1,000,000 of net assets as of the date of its latest annual or more recent certified audited financial statement.

(3) Investments in any one corporation, mutual fund, or real estate investment trust may not exceed ten percent (10%) of the insurer's capital and surplus; and

(4) The aggregate of all investments made under this subsection may not exceed twenty percent (20%) of the insurer's assets;

(i) Preferred Stock. Preferred stock of corporations organized under the laws of the United States of America or any of its states, provided:

(1) Such corporations must be solvent with at least \$1,000,000 of net worth as of the date of its latest annual or more recent certified audited financial statement or will have at least \$1,000,000 of net worth after completion of a security offering which is being subscribed to by the insurer;

(2) Investments in the preferred stock of any one corporation will not exceed twenty percent (20%) of the insurer's capital and surplus;

(3) In the aggregate not more than ten percent (10%) of the insurer's assets may be invested in preferred stock the redemption and retirement of which is not provided for by a sinking fund meeting the standards established by the National Association of Insurance Commissioners to value the preferred stock at cost; and

(4) The aggregate of all investments made under this subsection may not exceed forty percent (40%) of the insurer's assets;

(j) Collateral Loans. Collateral loans secured by a first lien upon or a valid and perfected first security interest in an asset, provided:

(1) The amount of any such collateral loan will not exceed eighty percent (80%) of the value of the collateral asset at any time during the duration of the loan, and

(2) The asset used as collateral would be authorized for direct investment by the insurer under other provisions of this Section 4, except real property in subsection (l);

(k) Real Estate Loans. Notes, evidences of indebtedness or participations therein secured by a valid first lien upon real property or leasehold estate therein located in the United States of America, provided:

(1) The amount of any such obligation secured by a first lien upon real property or leasehold estate therein shall not exceed ninety percent (90%) of the value of such real property or leasehold estate therein, but the amount of such obligation:

(A) May exceed ninety percent (90%) but shall not exceed one hundred percent (100%) of the value of such real property or leasehold estate therein if the insurer or one or more wholly owned subsidiaries of the insurer owns in the aggregate a ten percent (10%) or greater equity interest in such real property or leasehold estate therein;

(B) May be ninety-five percent (95%) of the value of such real property or leasehold estate therein if it contains only a dwelling designed exclusively for occupancy by not more than four families for residential purposes, and the portion of the unpaid balance of such obligation which is in excess of an amount equal to ninety percent (90%) of such value is guaranteed or insured by a mortgage insurance company qualified to do business in the State of Texas; or

(C) May be greater than ninety percent (90%) of the value of such real property or leasehold estate therein to the extent the obligation is insured or

guaranteed by the United States of America, the Federal Housing Administration pursuant to the National Housing Act of 1934, as amended (12 U.S.C. Section 1701 et seq.) or the state of Texas; and

(2) The term of an obligation secured by a first lien upon a leasehold estate in real property shall not exceed a period equal to four-fifths (4/5) of the then unexpired term of such leasehold estate, provided the unexpired term of the leasehold estate must extend at least ten (10) years beyond the term of the obligation, and each obligation shall be payable in an installment or installments of sufficient amount or amounts so that at any time after the expiration of two-thirds (2/3) of the original loan term, the principal balance will be no greater than the principal balance would have been if the loan had been amortized over the original loan term in equal monthly, quarterly, semi-annual or annual payments of principal and interest, it being required that under any method of repayment such obligation will fully amortize during a period of time not exceeding four-fifths (4/5) of the then unexpired term of the security leasehold estate; and

(3) If any part of the value of buildings is to be included in the value of such real property or leasehold estate therein to secure the obligations provided for in this subsection, such buildings shall be covered by adequate property insurance, including but not limited to fire and extended coverage insurance issued by a company authorized to transact business in the State of Texas or by a company recognized as acceptable for such purpose by the insurance regulatory official of the state in which such real estate is located, and the amount of insurance granted in the policy or policies shall be not less than the unpaid balance of the obligation or the insurable value of such buildings, whichever is the lesser. The loss clause shall be payable to the insurer as its interest may appear; and

(4) To the extent any note, evidence of indebtedness or participation therein under this subsection (k) represents an equity interest in the underlying real property, the value of such equity interest shall be determined at the time of execution of such note, evidence of indebtedness or participation therein and that portion shall be designated as an investment subject to the provisions of subsection (1)(2) of this Section 4; and

(5) The amount of any one such obligation may not exceed twenty-five percent (25%) of the insurer's capital and surplus;

(l) Real Estate. Real property fee simple or leasehold estates, located within the United States of America, as follows:

(1) Home and branch office real property or participations therein, which must be materially enhanced in value by the construction of durable, permanent type buildings and other improvements costing an amount at least equal to the cost of such real property exclusive of buildings and improvements at the time of acquisition, or by the construction of such buildings and improvements which must be commenced within two years of the date of the acquisition of such real property, provided:

(A) At least thirty percent (30%) of the available space in such building shall be occupied for the business purposes of the insurer and its affiliates and,

(B) The aggregate investment in such home and branch offices shall not exceed twenty percent (20%) of the insurer's assets; and

(2) Other investment property or participations therein, which must be materially enhanced in value by the construction of durable, permanent type buildings and other improvements costing an amount at least equal to the cost of such real property, exclusive of buildings and improvements at the time of acquisition, or by the construction of such buildings and improvements which must be commenced within two years of the date of acquisition of such real property, provided that such investment in any one piece of property or interest therein, including the improvements, fixtures, and equipment pertaining thereto may not

exceed five percent (5%) of the insurer's assets; provided, however, nothing in this Article shall allow ownership of, development of, or equity interest in any residential property or subdivision, single or multiunit family dwelling property, or undeveloped real estate for the purpose of subdivision for or development of residential, single or multiunit family dwellings, except acquisitions as provided in subsection (4) below, and such ownership, development or equity interests shall be specifically prohibited;

(3) The admissible asset value of each such investment in the properties acquired under paragraphs (1) and (2) above shall be subject to review and approval by the Commissioner of Insurance. The Commissioner shall have discretion at the time such investment is made or any time when an examination of the company is being made to cause any such investment to be appraised by an appraiser, appointed by the Commissioner, and the reasonable expense of such appraisal shall be paid by such insurance company and shall be deemed to be a part of the expense of examination of such company. If the appraisal is made upon application of the company, the expense of such appraisal shall not be considered a part of the expense of examination of such company. No insurance company may hereafter make any write-up in the valuation of any of the properties described in paragraphs (1) or (2) above unless and until it makes application therefor and such increase in valuation shall be approved by the Commissioner; and

(4) Other real property acquired:

(A) In good faith by way of security for loans previously contracted or moneys due, or

(B) In satisfaction of debts previously contracted for in the course of its dealings, or

(C) By purchase at sales under judgment or decrees of court, or mortgage or other lien held by such insurer; and

(5) Regardless of the mode of acquisition specified herein, upon sale of any such real property, the fee title to the mineral estate or any portion thereof may be retained by the insurance company indefinitely;

(m) Oil, Gas and Minerals. In addition to, and without limitation on, the purposes for which real property may be acquired, secured, held or retained pursuant to other provisions of this Section, every such insurance company may secure, hold, retain and convey production payments, producing royalties and producing overriding royalties or participations therein as an investment for the production of income, provided:

(1) in no event may such company carry such assets in an amount in excess of ninety percent (90%) of the appraised value thereof; and

(2) no one investment under this subsection may exceed ten percent (10%) of the insurer's capital and surplus in excess of statutory minimum capital and surplus applicable to that insurer, and the aggregate of all such investments may not exceed ten percent (10%) of the insurer's assets as of December 31st next preceding the date of such investment; and

(3) For the purposes of this paragraph, the following definitions apply:

(A) A production payment is defined to mean a right to oil, gas or other minerals in place or as produced that entitles its owner to a specified fraction of production until a specified sum of money, or a specified number of units of oil, gas or other minerals, has been received;

(B) A royalty and an overriding royalty are each defined to mean a right to oil, gas and other minerals in place or as produced that entitles the owner to a specified fraction of production without limitation to a specified sum of money, or a specified number of units of oil, gas or other minerals;

(C) "Producing" is defined to mean producing oil, gas or other minerals in paying quantities, provided that it shall be deemed that oil, gas or other minerals

are being produced in paying quantities if a well has been "shut in" and "shut in royalties" are being paid;

(n) Foreign Countries and United States Territories. Investments in foreign countries or in commonwealths, territories or possessions of the United States where the insurer conducts an insurance business provided:

(1) Such investments are similar to those authorized for investment within the United States of America by other provisions of this Section 4, and

(2) Such investments when added to the amount of similar investments made within the United States do not result in the combined total of such investments exceeding the limitations specified in subsections (a) through (p) of this Section 4, and

(3) Such investments may not exceed the amount of reserves attributable to the business in force in said countries, provided, however, such investments may exceed such reserves to the extent required by any country as a condition to doing business therein, but to the extent such investments exceed such reserves said investments shall not be considered as admitted assets of the insurer;

(o) Investments Not Otherwise Specified. Investments which are not otherwise authorized by this article and which are not specifically prohibited by statute, including that portion of any investments which may exceed the limits specified in subsections (a) through (n) of this Section 4, provided:

(1) If any aggregate or individual specified investment limitation in subsections (a) through (n) of this Section 4 is exceeded, then the excess portion of such investment shall be an investment under this subsection (o);

(2) The burden of establishing the value of such investments shall be upon the insurer; and

(3) The amount of any one such investment may not exceed ten percent (10%) of the insurer's capital and surplus in excess of the statutory minimum capital and surplus applicable to that insurer; and

(4) The aggregate of all investments made under this subsection may not exceed the lesser of either five percent (5%) of the insurer's assets or the insurer's capital and surplus in excess of the statutory minimum capital and surplus applicable to that insurer;

(p) Other Authorized Investments. Those other investments as follows:

(1) Any investment held by an insurer on the effective date of this Act, which was legally authorized at the time it was made or acquired or which the insurer was authorized to hold or possess immediately prior to such effective date, but which does not conform to the requirements of the investments authorized in subsections (a) through (o) hereof, may continue to be held by and considered as an admitted asset of the insurer, provided the investment is disposed of at its maturity date, if any, or within the time prescribed by the law under which it was acquired, if any, and provided further, in no event shall the provisions of this paragraph (1) alter the legal or accounting status of such asset; and

(2) Any other investment which may be authorized by other provisions of this Code or by other laws of this State for the insurers which are subject to this Article.

(q) Special Limitations for Certain Fixed Annuity Insurers. The quantitative limitations imposed above in subsections (b)(2), (c)(2), (f)(1), (g)(3), (h)(3), (i)(2), and (k)(5) of this Section 4, shall not apply to any insurer with assets in excess of two billion five hundred million dollars (\$2,500,000,000) and that receives more than 90% of its premium income from fixed rate annuity contracts and that has more than 90% of its assets allocated to its reserves held for fixed rate annuity contracts (excluding, however, any premium income, assets and reserves received from, held for or allocated to separate accounts from the computation of the above percentages), and in lieu thereof, the following quantitative limitations shall apply to such insurers:

(1) The limitation in subsection (b)(2) of this Section 4 shall be 2% of the insurer's assets;

(2) the limitation in subsection (c)(2) of this Section 4 shall be 2% of the insurer's assets;

(3) the limitation in subsection (f)(1) of this Section 4 shall be 2% of the insurer's assets;

(4) the limitation in subsection (g)(3) of this Section 4 shall be 1% of the insurer's assets;

(5) the limitation in subsection (h)(3) of this Section 4 shall be 1% of the insurer's assets;

(6) the limitation in subsection (i)(2) of this Section 4 shall be 2% of the insurer's assets; and

(7) the limitation in subsection (k)(5) of this Section 4 shall be 2% of the insurer's assets.

(r) Premium Loans. Loans to finance the payment of premiums for the insurer's own insurance policies or annuity contracts, provided that the amount of any such loan does not exceed the sum of (i) the available cash value of such insurance policy or annuity contract, and (ii) the amount of any escrowed commissions payable relating to such insurance policy or annuity contract for which the premium loan is made.

Sec. 5. AGGREGATE DIVERSIFICATION REQUIREMENTS. The following provisions govern and take precedence over each and every provision of Section 4:

(a) Investment in all or any types of securities, loans, obligations, or evidences of indebtedness of a single issuer or borrower (which shall include such issuer's or borrower's majority-owned subsidiaries or parent or the majority owned subsidiaries of such parent), other than those authorized investments that are either direct obligations of or guaranteed by the full faith and credit of the United States of America, the State of Texas or a political subdivision thereof, or are insured by an agency of the United States of America or the State of Texas, shall not in the aggregate exceed five percent (5%) of the insurer's assets except for those investments provided for in subsections 4(e) and 4(f); and

(b) The aggregate investment in real property authorized by subsections 4(l), 4(m), 4(o), and 4(p) may not exceed thirty-three and one-third percent (33 1/3%) of the insurer's assets, provided, in the event an insurer acquires real property under subsection 4(l)(4) and such acquisition causes such aggregate real estate to exceed the limitation set forth herein, the insurer shall either dispose of sufficient excess real property to come within such limitations within ten years of such acquisition or it may not thereafter admit as an asset the value of the real property in excess of such limitation. Should an insurer's real property acquisitions exceed such thirty-three and one-third percent (33 1/3%) limitation, no additional real property acquisitions under subsections 4(l)(1), 4(l)(2), 4(m), 4(o) and 4(p) are authorized until such excess is removed.

Sec. 6. PRIOR APPROVAL EXCEPTION. The quantitative limitations respecting any investment authorized in Section 4 may be waived by prior written approval of the Commissioner, provided:

(a) A hearing is held to determine whether approval should be granted;

(b) The applicant seeking prior approval establishes that unreasonable or unnecessary loss or harm to the insurer will result if approval is withheld;

(c) The excessive investment will not have a material adverse effect upon the insurer;

(d) The size of the investment is reasonable in relation to the insurer's assets, capital, surplus and liabilities; and

(e) The Commissioner's prior authorization may treat the resulting excess investment as an asset not admitted.

Sec. 7. ACCOUNTING PROVISIONS.

(a) The term "assets" as used in this Article shall mean the statutory accounting admitted assets of the insurer, including lawful money of the United States, whether in the form of cash or demand deposits in solvent banks, savings and loan associations, and credit unions and branches thereof, organized under the laws of the United States of America, or its states, when held in accordance with the laws or regulations applicable to such entities, less the insurer's separate accounts that are subject to Part III of Article 3.39, Article 3.72, Article 3.73 and Article 3.75 of this Code.

(b) Each insurer shall maintain reasonable, adequate and accurate evidence of its ownership of its assets and investments.

(c) The ownership of governmental or corporate securities shall be evidenced as provided for in Article 21.39-B, Section 4, of this Code.

(d) Other than investments made as a participation in a partnership or joint venture, or as otherwise provided in Article 21.39-B of this Code, investments shall be held solely in the name of the insurer.

(e) An insurer's participation in a partnership or joint venture shall be limited to those partnerships or joint ventures whose purposes are for investment in properties authorized under subsections (k), (l) and (m) of Section 4 of this Article, and the whole of the insurer's participation therein shall be designated under such subsections.

Sec. 8. INVESTMENTS OF COMPANIES REINSURED. In any case in which a domestic insurance company shall assume and reinsure the business and take over the assets of another insurance company, either domestic or foreign, all assets or investments of such reinsured company that were authorized as proper assets or investments for the funds of such reinsured company, and which are taken over by such domestic company, shall be considered as valid assets or investments of such reinsuring domestic company under the laws of this state, provided such assets or investments are approved by the Commissioner of Insurance of this state, and the same are taken over on terms satisfactory to said Commissioner, and upon the condition that the Commissioner shall have the power to require the reinsuring domestic company to reasonably dispose of any of such assets or investments as do not otherwise meet the requirements of this Article within such time schedule as will minimize any financial loss or other hardship by the disposition of such asset or investment.

Sec. 9. RULES AND REGULATIONS. The State Board of Insurance may adopt such rules, regulations, minimum standards or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of this Article.

Sec. 10. REAL ESTATE BROKERAGE. Domestic companies as defined in Section 5 of Article 3.01 of this Code and other insurers specifically made subject to the provisions of this Article shall not engage in the business of a real estate broker or a real estate salesman as defined by Article 6573a, Revised Statutes, except that such insurers may, hold, improve, maintain, manage, rent, lease, sell, exchange, or convey any of the real property interests owned as investments under Section 4 of this Article.

SECTION 2. The effective date of this Act and Article 3.33 of the Insurance Code of Texas as set forth in Section 1 hereto shall be January 1, 1986.

SECTION 3. All laws and parts of laws in conflict herewith shall be and the same are hereby repealed.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Uribe, Washington.

Absent-excused: Brooks.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read:

Austin, Texas
April 4, 1985

Mrs. Betty King
Secretary of the Senate
State Senate
Capitol Building
Austin, Texas 78701

Dear Mrs. King:

On March 11, 1985, I nominated Mr. Perkins D. Sams of Midland for appointment to the State Purchasing and General Services Commission for a term to expire January 31, 1991. Mr. Sams is unable, at the present time, to accept this appointment. I, therefore, request that the Senate return the appointment to this Governor.

Respectfully submitted,

/s/Mark White
Governor of Texas

NOMINATION RETURNED

On motion of Senator Howard and by unanimous consent, the request of the Governor to return the nomination of Mr. Perkins D. Sams, to be a Member of the State Purchasing and General Services Commission, was granted.

CONFERENCE COMMITTEE ON HOUSE BILL 8

Senator Harris called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 8 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H.B. 8 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Caperton, Glasgow, McFarland, Montford.

SENATE RESOLUTION 279

Senator Lyon offered the following resolution:

S.R. 279, Congratulating Virgil Lee Hancock, on his 96th birthday.

The resolution was read and was adopted.

GUEST PRESENTED

Senator Lyon introduced Mr. Hancock, seated in the gallery.

The Senate expressed their congratulations to Mr. Hancock.

BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

S.B. 444

S.B. 33

S.C.R. 37

MOTION TO PLACE**COMMITTEE SUBSTITUTE SENATE BILL 544 ON SECOND READING**

Senator McFarland moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 544, Relating to alcohol and other drug dependency coverage in certain individual and group health insurance policies and other health coverage.

The motion was lost by the following vote: Yeas 17, Nays 13. (Not receiving two-thirds vote of the Members present)

Yeas: Barrientos, Blake, Caperton, Glasgow, Henderson, Jones, Krier, McFarland, Parmer, Sarpalius, Sharp, Sims, Truan, Uribe, Washington, Whitmire, Williams.

Nays: Brown, Edwards, Farabee, Harris, Howard, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Santiesteban, Traeger.

Absent-excused: Brooks.

COMMITTEE SUBSTITUTE SENATE BILL 192 ON SECOND READING

On motion of Senator Sharp and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 192, Relating to the conveyance of certain state-owned real property in Fort Bend and Harris counties.

The bill was read second time.

Senator Leedom offered the following amendment to the bill:

Amend **C.S.S.B. 192** by revising the last paragraph to SECTION 1 to read as follows:

“In the event that Sections 31.158 and 31.159, Natural Resources Code, are added by **S.B. 43**, Acts of the 69th Legislature, Regular Session, 1985, the property shall be conveyed in accordance with those sections.”

The amendment was read and was adopted.

On motion of Senator Sharp and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 192 ON THIRD READING

Senator Sharp moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 192 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Brooks.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Brooks.

COMMITTEE SUBSTITUTE SENATE BILL 518 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 518, Relating to the imposition of certain duties on the Board of Pardons and Paroles and to the eligibility of certain inmates for parole and preparole transfer; amending Article 42.12, Code of Criminal Procedure, 1965, as amended, by amending Subsections (a) and (e) of Section 15.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 518 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 518 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Barrientos, Blake, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Glasgow, Washington.

Absent-excused: Brooks.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3.

Yeas: Barrientos, Blake, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Nays: Glasgow, Montford, Parmer.

Absent-excused: Brooks.

ESCORT COMMITTEE APPOINTED

In accordance with the provisions of S.C.R. 34, the President announced the appointment of the following as a Committee to Escort Senator Phil Gramm to the Joint Session: Senators Brown, Harris, Krier, Leedom and McFarland.

MOTION TO ADJOURN

On motion of Senator Mauzy and by unanimous consent, the Senate at 11:50 o'clock a.m. agreed to adjourn, upon the completion of the Joint Session today, until 11:00 o'clock a.m. tomorrow.

JOINT SESSION

(To hear address by the Honorable Phil Gramm, United States Senator)

The President of the Senate and the Senators present, accompanied by the Secretary of the Senate and the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives at 12:00 o'clock noon, pursuant to the provisions of S.C.R. 34.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The Honorable Phil Gramm, United States Senator from Texas, and his party were escorted to the Speaker's Rostrum by Senators Brown, Harris, McFarland, Leedom and Krier on the part of the Senate and Representatives Jackson, Blanton, Blackwood, Hammond, A. Hill, P. Hill, S. Johnson, Riley, Tallas, Taylor, Willy, Kuempel, Patrick, Pennington, T. Smith, Staniswalis, Toomey, Vowell and R. Smith on the part of the House.

The President called the Senate to order and announced a quorum of the Senate present.

The Honorable Gib Lewis, Speaker of the House of Representatives, called the House to order, announced a quorum of the House present and stated the purpose of the Joint Session.

Speaker Lewis presented Senator Brown, who introduced the Honorable Phil Gramm to the Joint Session.

Senator Gramm addressed the Joint Session.

At the conclusion of the address, Senator Brown presented Senator Gramm with a Texas-shaped fruit cake.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.C.R. 107 - By Sims: Commending Mary Jo Fausone.

S.R. 281 - By Sarpalius: Commending the Textile Research Center.

S.R. 282 - By Sharp: Extending congratulations to Chuck Bloom.

S.R. 283 - By Sharp: Extending congratulations to Rudolph Jahn.

S.R. 284 - By Sharp: Extending congratulations to Mrs. Lenora Weinert.

S.R. 285 - By Sharp: Extending welcome to Dr. Henry Lopez-Roman, Capitol Physician for the Day.

S.R. 286 - By Barrientos: Commending the National Notary Association.

ADJOURNMENT

Senator Krier announced the purpose of the Joint Session had been accomplished and declared the Senate at 12:28 o'clock p.m. would stand adjourned until 11:00 o'clock a.m. tomorrow, in accordance with a motion previously adopted by the Senate.

APPENDIX

Signed by Governor

(April 4, 1985)

H.B. 316 (Effective immediately)

(April 5, 1985)

S.B. 71 (Effective immediately)

S.B. 126 (Effective January 1, 1986)

S.B. 131 (Effective September 1, 1985)

S.B. 325 (Effective September 1, 1985)

S.B. 397 (Effective immediately)

FIFTIETH DAY

(Wednesday, April 10, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington.

Absent-excused: Santiesteban, Whitmire, Williams.

A quorum was announced present.

Senator Grant Jones offered the invocation as follows:

Heavenly Father, we thank Thee for the blessings which Thou has given us. Help us to realize our responsibilities to make decisions that affect all of our people. Give us Your guidance and Your wisdom as we make those decisions. In Christ's name. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Whitmire was granted leave of absence for today on account of illness on motion of Senator Sharp.

Senator Williams was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Santiesteban was granted leave of absence for today on account of important business on motion of Senator Farabee.

REPORTS OF STANDING COMMITTEES

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

S.J.R. 30

S.J.R. 35